



Senate Committee on Michigan Competitiveness
May 18, 2016

Criminal Justice Reform Bills
SB 933, 934, 935, 948, 949

Good morning Chairman Shirkey and members of the committee.

I am Barbara Levine, the associate director for research and policy of CAPPS, the Citizens Alliance on Prisons and Public Spending. CAPPS has been working for over 16 years to reduce excessive incarceration in Michigan and shift some of the resources now spent on prisons to the services and programs that actually do more to improve public safety. Our approach has always been to examine the data, develop policy recommendations grounded in the data and then work with other stakeholders to craft legislation that would have a predictable impact on safely reducing the prisoner population.

In years past this has been an uphill battle. But now we are very encouraged because there is so much interest in criminal justice and specifically corrections reform in both the Senate and the House. We are grateful to Sen. Proos for his leadership on these issues in the Senate.

We have reviewed the entire package of bills and made a chart summarizing our comments. That is attached to my testimony. I have just a few points to offer about the bills before you today.

SB 933. The bill places a 30-day cap on sanctioning technical probation violators by temporarily placing them in jail. This only applies to violators who are not having their probation revoked. We have no idea how much jail time these violators are currently serving so we don't know what the impact on jail beds will be. Limiting the length of temporary incarceration in jail is a fine goal, but the bill says nothing about reducing the number of technical probation violators whose probation is revoked. In fact it expressly says that judges would retain complete discretion to revoke probation. So the number of revocations would presumably not change and the bill would have no effect on reducing the number of technical probation violators sent to prison.

More than 1,000 technical probation violators are resentenced to prison every year. The Council of State Governments had a detailed proposal that would have limited sanctions for technical violators depending on the nature and frequency of the person's supervision failures. It estimated that permitting revocation of probation and commitment to prison only for the most serious or persistent technical violators could

save 990 beds by Year 5. While stakeholders could not agree on the specifics of the CSG proposal, finding a way to reduce these commitments remains very important.

We hope that in addition to enacting SB 933, you will consider establishing a workgroup that might at least develop voluntary probation revocation guidelines. Perhaps that first step toward building consensus would help get us where we need to go.

SB 934. Current subsection (2) of 771.2, the statute being amended, already allows a court to amend an order of probation at any time. So we're not clear on the reason for giving the court permission to reduce the probation term after the defendant has served 50% of it. But requiring the MDOC to systematically give judges notice when defendants are half-way through their term is certainly a good idea. A routine review at that point might encourage judges to shorten probation periods for people who have done well. The elimination of unnecessary supervision saves resources all the way around.

SB 935. We strongly support putting more resources toward practices that help people under supervision succeed and thus avoid probation and parole revocations. We don't quite understand the concept of agreements between the MDOC and its FOA regions to create incentives for implementing these practices. We also wonder about conditioning the award of funds on achieving the very ambitious goal of a 10 percent reduction in revocations in one year.

If the goal is to promote creativity and flexibility at the local level and more focus on the diversity of needs among regions, perhaps a portion of increased funding for revocation reduction programs could be distributed to regions on an application basis. Probation and parole agents could assess the challenges most commonly faced by the people they supervise and propose solutions they believe might be successful. Encouraging experienced staff to help develop innovative programs would seem to be a worthwhile investment. And it would allow new ideas to be evaluated and shared. We all want programs and services to be evidence-based, but we don't want to be in a box where nothing new is tried because it hasn't already been tested and proven.

So giving incentives to FOA regions to implement thoughtful practices tailored to local needs is a fine idea. But CAPPS recommends that the resources be made available upfront, not conditioned on a reduction in revocations having already been proven. And the practices for which funds can be used, though obviously subject to FOA assessment for reasonableness, probably should not be limited to those spelled out by statute.

SB 948 and 949. The only thing I'd like to say about these bills is that in an earlier version of our chart, I questioned why major controlled substance offenses were excluded from the application of swift and sure sanctions. However I reread MCL 771.1 and realized that major controlled substance offenses are on the short list of those crimes for which a probation sentence cannot be given. So I apologize for any confusion from my mistake. The chart you received today has been corrected.

Thank you for the opportunity to speak. We very much look forward to working with the sponsors on this package and would be happy to meet with any member who wishes to discuss any aspects of the bills.